

3. Any representation by any witness or member of the Defense is mere speculation which is highly outweighed by its' prejudicial affect on the jury.

MEMORANDUM

I. Federal Rules of Evidence 401 and 402 Prohibit the Admission of the Evidence

Rule 402 of the Federal Rules of Evidence provides that "Irrelevant evidence is not admissible." Per Rule 401 of the Federal Rules of Evidence, "Evidence is relevant if (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action." As shown by Defendant mentioning "under the influence of bath salts" in its filings Defendant will likely argue that Plaintiff while attempting to save his own life somehow exhibited signs of intoxication from having particular drugs identified in his system. Therefore, under Rules 401 & 402 of the Federal Rules of Evidence, any evidence or argument should be barred.

II. Federal Rules of Evidence 403 Prohibit the Admission of the Evidence

Any mention of intoxication should be barred under Rule 403 of the Federal Rules of Evidence. Rule 403 of the Federal Rules of Evidence provides that evidence should be excluded if its "probative value" is "substantially outweighed by the danger of unfair prejudice." Plaintiffs state that this evidence has any probative value. However, even if it has some probative value, it would be minimal at best because it has no bearing on Mr. Lovingood's actions or the accounts of what occurred when Mr. Lovingood was fighting for his own life. Furthermore, the probative value would be "substantially outweighed by the danger of unfair prejudice."

III. The Defendants have Offered No Expert to Testify Regarding

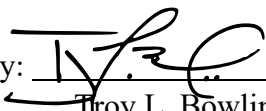
To allow the Defendants to offer this testimony without having identified any expert evidence or testimony regarding their mere speculation would disregard the clear intention of the

Rules of Evidence, Daubert, and this Honorable Courts Orders. Such, should be prohibited.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court instruct and order the Defendants to instruct its witnesses to refrain from referring to or making any representations that the alleged victim had been consumed any narcotic or was displaying actions of consistent with intoxication.

RESPECTFULLY SUBMITTED, this the 15th day of **November, 2021**.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was transmitted for service via Pacer and this Court's Electronic Court Filing System to:

This the 15th day of November, 2021.

THE BOWLIN LAW FIRM P.C.

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